

**Internal Revenue Service  
Director, Exempt Organizations  
Rulings and Agreements**

**Department of the Treasury  
P.O. Box 2508  
Cincinnati, Ohio 45201**

**Number: 200919058  
Release Date: 5/8/2009**

**Employer Identification Number:**

**Date: February 10, 2009**

**Person to Contact - ID#:**

**Contact Telephone Numbers:**

**LEGEND**

**UIL 4945.04-04**

**B = Foundation  
C = City, County, and County  
D = Director  
E = Director**

**Dear :**

We have considered your request for advance approval of your grant-making programs under section 4945(g)(1) of the Internal Revenue Code, dated, November 20, 2008.

Our records indicate that the B was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that the B will be awarding scholarships in amounts to be determined annually by the Board of Directors to graduating high school students that reside in the C. Notice of scholarships shall be given to eligible students in the Geographical Areas by posting or in accordance with the procedure established by the principal or guidance counselor of each high school. The scholarship is a one-time annual grant and may not be renewed. The funds must be used solely for tuition and tuition related expenses which include: tuition and fees, books and supplies, and other miscellaneous tuition related expenses.

Scholarship recipients shall be selected based on the following criteria:

- Academic merit
- Achievement and character
- Financial need

To be eligible to apply for a scholarship an applicant must:

- Be graduating from high school.
- Intend to enroll in college or otherwise pursue training in a trade or profession at an accredited educational institution.

- Complete and submit an application describing the applicant's academic performance, activities, education and goals, and financial need, together with all required attachments, to the Selection Committee by the date specified in the application.

The Foundation does not discriminate against applicants based on race, color, or gender. No Director or Selection Committee member shall (1) behave in any manner or engage in any action that suggests bias or an intent to discriminate based on an applicant's race, color, national origin, religion, or gender or (2) request or seek to obtain any information that would support a biased or discriminatory selection process. The following persons are not eligible for scholarships:

- Descendants of D or E
- Directors, officers and employees of the Foundation (and its affiliates and their successors) and their Family Members. For all purposes herein, Family Members shall mean spouses, descendants (including adopted), spouses of descendants, parents, spouses of parents, descendants of parents (including adopted), and spouses of descendants of parents.
- Members of the Selection Committee and their Family Members.

The Selection Committee shall consist of the Board of Directors of the Foundation. The Selection Committee may remove and replace any member upon the unanimous vote of the members other than the member being removed; provided that if the member removed is a Director, the Board of Directors of the Foundation shall appoint the replacement.

The Selection Committee shall:

- Develop and review the form of application, acceptance letter, and other materials related to the scholarships, and determine periodically whether changes are necessary or appropriate, and implement such changes.
- Review the applications and evaluate the applicants based on (1) the information submitted by the applicant, (2) the input of the applicants' principals and teachers and other persons familiar with the applicant, and (3) other information available to the members of the Selection Committee.
- Rank the applicants based on academic merit, achievement and character, and financial need.
- Select the scholarship recipients based on the ranking of the applicants.
- Review the reports regarding the recipient's use of the funds and authorize the Foundation to pursue the return of funds it determines have been misused.
- Assure that members of the Selection Committee do not engage in biased or discriminatory selection practices and remove from the scholarship application process any person found to have engaged in such practices or take other appropriate corrective action.

Not later than July 1 of the year following the year in which the recipient received the scholarship, each recipient shall be required to submit a Report to the Selection Committee demonstrating attendance at the institution of higher education or participation in the training program described in his or her application and legitimate use of the scholarship funds. Such information shall include:

- The name of the institution that the recipient is attending\
- The recipient's major or intended degree.
- A copy of a transcript or similar progress report.
- A description of the recipient's extra-curricular and community service activities.
- A statement of the recipient's intended career.
- A description of the manner in which the funds were used.

Scholarship funds will be disbursed directly to the recipient in the form of an absolute grant. As a condition of the scholarship, each recipient must sign an Acceptance Letter in which the recipient agrees to (1) use the funds solely for legitimate educational expenses, (2) return to the Foundation any funds that the recipient does not use for such purposes, and (3) file a Report with the Selection Committee.

The Selection Committee shall:

- Verify the recipient's enrollment.
- Verify the accreditation of the institution or program.
- Request any documentation the Selection Committee determines is necessary to support the recipient's use of the funds.
- Investigate if a recipient fails to file a Report or respond to a request for additional information.

If the Selection Committee determines that the recipient has misused funds distributed to the recipient, the Selection Committee shall authorize the Foundation to demand in writing that the funds distributed to the recipient be returned, in whole or in part as determined by the Selection Committee. If the funds are not returned within 30 days of receipt of written demand, the Foundation shall take such action as the Foundation determines appropriate to collect the funds. Such action may include but is not limited to engaging the services of a collection agency or legal counsel to pursue the return of the funds.

The organization agrees to maintain records which include the following:

- a. Information used to evaluate the qualification of potential grantees;
- b. Identification of the grantees (including any relationship of any grantee to the private foundation), the amount and purpose of each grant; and any follow-up data collected.
- c. All grantee reports and other follow-up data obtained in administering the private foundation's grant program.
- d. All reports prepared by the Selection Committee.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the Provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b) (1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your scholarship program will be conducted as proposed with objectivity and nondiscrimination in awarding grants, we determined that your

procedures in awarding scholarship grants comply with the requirements of section 4945(g)(1) of the Code and that scholarships granted according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures is a one-time approval of your system standards and procedures that will result in grants which meet the requirements of section 4945(g)(1) of the Code. **This determination only covers the grant programs described above.** Thus, approval shall apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi  
Director of Exempt Organizations  
Rulings and Agreements